

EXHIBIT 4

01:34PM

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINJAN, INC.,

PLAINTIFF,

VS.

CISCO SYSTEMS, INC.,

DEFENDANT.

CASE NO. CV-17-0072-BLF

SAN JOSE, CALIFORNIA

APRIL 30, 2020

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TRANSCRIPT OF TELEPHONIC PROCEEDINGS
BEFORE THE HONORABLE BETH LABSON FREEMAN
UNITED STATES DISTRICT JUDGE

A-P-P-E-A-R-A-N-C-E-S (TELEPHONICALLY)

FOR THE PLAINTIFF:

FISH & RICHARDSON P.C.

BY: JUANITA R. BROOKS

MEGAN A. CHACON

ROGER A. DENNING

KELLY N. WILLIAMS

12390 EL CAMINO REAL

SAN DIEGO, CALIFORNIA 92130-2081

BY: AAMIR A. KAZI

1180 PEACHTREE ST

21ST FLOOR

ATLANTA, GEORGIA 30309

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTER:

IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY,
TRANSCRIPT PRODUCED WITH COMPUTER.

1 A P P E A R A N C E S: (CONT'D)

2 FOR THE DEFENDANT: DUANE MORRIS LLP
3 BY: LOUIS N. JAMESON
4 ALICE E. SNEDEKER
5 DAVID C. DOTSON
6 ROBIN L. MCGRATH
7 1075 PEACHTREE STREET, N.E.
8 SUITE 2000
9 ATLANTA, GEORGIA 30309-3448

10 BY: MATTHEW C. GAUDET
11 DUANE MORRIS - ATLANTA
12 1180 WEST PEACHTREE ST
13 SUITE 700
14 ATLANTA, GEORGIA 30309-3448
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02:00PM 1 OUT.

02:00PM 2 THE OTHER THING THAT YOU HAVE DONE IS THAT YOU HAVE GIVEN
02:00PM 3 EACH OTHER A CHART OF YOUR EXHIBITS AND THEN THE OBJECTIONS TO
02:00PM 4 THEM. I DON'T GO THROUGH IT AND JUST RULE ON THEM BECAUSE MOST
02:00PM 5 OF THOSE EXHIBITS WILL NEVER BE ADMITTED. SO I JUST WANT YOU
02:00PM 6 TO KNOW THAT YOU WON'T GET A RULING BASED ON THAT CHART.
02:00PM 7 THAT'S A CHART FOR YOU, NOT FOR ME, AND IF YOU HAVE OBJECTIONS
02:01PM 8 TO THE EXHIBITS, SOME YOU'LL OBJECT WHEN THE EXHIBIT IS
02:01PM 9 OFFERED, OTHERS YOU MAY BRING ON THE MORNING AT 8:30, BUT I
02:01PM 10 WANT YOU TO KNOW THAT I DON'T TAKE THAT AS A DOCUMENT THAT I
02:01PM 11 HAVE TO CHECK OFF "SUSTAINED" AND "OVERRULED" ON THE
02:01PM 12 OBJECTIONS.

02:01PM 13 OKAY.

02:01PM 14 MR. GAUDET: YOUR HONOR, THIS IS MATT GAUDET. COULD
02:01PM 15 I ASK JUST A COUPLE OF FOLLOW-UP QUESTIONS ON THOSE?

02:01PM 16 THE COURT: YES, SURE.

02:01PM 17 MR. GAUDET: WITH RESPECT TO THE THREE-PAGE
02:01PM 18 SUBMISSIONS THAT WOULD BE IN BY 5:00 P.M., WOULD THE IDEA BE
02:01PM 19 THAT BOTH SIDES, WHATEVER THE COMPETING VIEWS ARE, BOTH SIDES
02:01PM 20 WOULD PUT IN THEIR THREE PAGES OR IS IT A COMMON --

02:01PM 21 THE COURT: THAT'S A REALLY GOOD QUESTION. I'VE
02:01PM 22 ACTUALLY NEVER HAD ANYTHING IN WRITING FROM THE OPPOSING SIDE.
02:01PM 23 IT'S USUALLY THE -- BECAUSE THERE'S NO TIME TO DO IT REALLY.

02:01PM 24 AS I SAY, I DON'T REQUIRE ANYTHING IN WRITING. YOU CAN
02:01PM 25 COME IN AND DO IT ORALLY. ONE OF THE PROBLEMS THAT I FOUND IS

03:09PM 1 TOGETHER, AND I'M HAMPERED BY NOT HAVING IT. SO I'M GOING TO
03:09PM 2 WAIT ON THAT.

03:09PM 3 SO THE REMAINDER OF THIS MOTION WILL BE WITHDRAWN.

03:09PM 4 IT LOOKED LIKE THE '154 WAS MOOT ANYWAY BASED ON MY
03:09PM 5 SUMMARY JUDGMENT RULING. AND THEN ON THE '633 AND THE '780,
03:10PM 6 WE'LL SEE WHAT HAPPENS LATER, BUT I'M NOT GOING TO RULE ON
03:10PM 7 THOSE.

03:10PM 8 OKAY. THAT THEN COMPLETES THE PLAINTIFF'S MOTIONS.

03:10PM 9 LET'S TAKE A TEN MINUTE BREAK AND COME BACK AT 3:20, AND
03:10PM 10 THEN WE'LL FINISH UP WITH THE CISCO ONES, OKAY?

03:10PM 11 MR. JAMESON: THANK YOU, YOUR HONOR.

03:10PM 12 (RECESS FROM 3:10 P.M. UNTIL 3:19 P.M.)

03:19PM 13 THE COURT: I THINK WE HAVE EVERYONE, AND WE CAN GET
03:19PM 14 STARTED AGAIN. SO WE'LL TURN TO CISCO'S MOTIONS. I THINK
03:20PM 15 ACTUALLY THE HARDER ONES ARE OUT OF OUR WAY. AT LEAST THAT'S
03:20PM 16 THE WAY IT SEEMED TO ME.

03:20PM 17 OKAY. SO CISCO'S IN LIMINE MOTION NUMBER 1 IS TO EXCLUDE
03:20PM 18 PHIL HARTSTEIN'S TESTIMONY REGARDING FINJAN'S CORPORATE HISTORY
03:20PM 19 AS HEARSAY.

03:20PM 20 LET ME JUST CUT THROUGH THIS A LITTLE BIT. I APPRECIATE
03:20PM 21 THAT MR. HARTSTEIN MIGHT VEER INTO INADMISSIBLE TESTIMONY BASED
03:20PM 22 ON HEARSAY, BUT, FRANKLY, I DON'T KNOW HOW TO GIVE ANY
03:20PM 23 LIMITATION ON HIS TESTIMONY UNTIL I HEAR IT.

03:20PM 24 IT WILL DEPEND ON HOW THE QUESTION IS ASKED, IT WILL
03:20PM 25 DEPEND ON THE BASIS FOR HIS ANSWER.

03:20PM 1 WHAT HE KNOWS FROM 2013 TO THE PRESENT IS -- BUILDS ON THE
03:20PM 2 SHOULDERS OF EVERYTHING THAT CAME BEFORE HIM AND ISSUES LIKE
03:21PM 3 THE STRENGTH OF THE PATENT ARE THINGS THAT HE'S BEEN LIVING
03:21PM 4 WITH FOR YEARS, MATTERS THAT HE KNOWS FROM TALKING TO FORMER
03:21PM 5 CEO'S NOT SO MUCH. THAT WOULD PROBABLY BE TRADITIONAL HEARSAY.

03:21PM 6 SO I DON'T KNOW THAT THERE'S MUCH MORE THAT WE CAN DISCUSS
03:21PM 7 HERE OTHER THAN I NEED TO DEFER RULING ON THIS.

03:21PM 8 SO, MR. GAUDET, WHO ON YOUR TEAM WAS TAKING THE LEAD ON
03:21PM 9 THIS ONE?

03:21PM 10 MR. GAUDET: YOUR HONOR, MS. MCGRATH WAS TAKING THE
03:21PM 11 LEAD, BUT I THINK IN THE INTEREST OF TIME WE CAN SAY THAT WE
03:21PM 12 UNDERSTAND YOUR RULING AND THAT MAKES SENSE.

03:21PM 13 THE COURT: OKAY. AND HAVING SEEN MR. HARTSTEIN
03:21PM 14 TESTIFY A FEW TIMES, I CAN UNDERSTAND WHY YOU WOULD ONLY WANT
03:21PM 15 HIM TO TESTIFY FOR A SHORT TIME, HE'S A VERY NICE MAN.

03:21PM 16 MR. GAUDET: I HAD THE SAME EXPERIENCE SITTING WITH
03:21PM 17 HIM FOR A DAY AT HIS DEPOSITION. HE IS CHARMING, THERE'S NO
03:21PM 18 DOUBT ABOUT IT.

03:21PM 19 THE COURT: AND EVERY COMPANY NEEDS TO TELL ITS
03:21PM 20 ORIGINATION STORY IN SOME WAY. YOU MAY THINK IT'S AN
03:21PM 21 ORIGINATION MYTH, BUT WE WILL STICK TO THE STORY.

03:22PM 22 I'VE HEARD A LOT OF GOOD ONES OVER THE YEARS, AND IT CAN
03:22PM 23 BE THE JURY'S FAVORITE PART OF THE TRIAL, MAINLY BECAUSE THEY
03:22PM 24 CAN UNDERSTAND THAT.

03:22PM 25 OKAY. SO LET'S GO ON TO NUMBER 2, AND THIS IS CISCO'S

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

DATED: MAY 5, 2020